

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

----- :
GILBERT JAMES :

vs. :

CIVIL ACTION NO:
3:11cv221

ENCORE CAPITAL GROUP, INC., :
MIDLAND FUNDING LLC and :
MIDLAND CREDIT MANAGEMENT, INC. :
----- :

CERTIFIED COPY

DEPOSITION OF GILBERT JAMES

November 17, 2011

11:00 a.m.

Taken at:

TROUTMAN SANDERS
1001 Haxall Point
Richmond, Virginia 23219

REPORTED BY: LESLIE D. ETHEREDGE, RMR

COOK & WILEY, INC.
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3751 Westerre Parkway, Suite D-1
Richmond, Virginia 23233
(804) 359-1984

EXHIBIT

N

1 of Richmond General District Court?

2 **A Yes.**

3 Q The date of it appears to me to be
4 April 7, 2010.

5 **A Yes. That's what is on here.**

6 Q Where were you living on April 7, 2010?

7 **A In Montpelier, 15715 --**

8 Q Do you remember how earlier or how -- when
9 you had left the North Avenue address?

10 **A What you mean?**

11 Q When you moved from the address on North
12 Avenue.

13 **A When I moved from the address on North
14 Avenue, I got it after I moved.**

15 Q But when did you move from North Avenue?

16 **A It was in 200 -- I think 2010.**

17 Q Where were you served with this Warrant In
18 Debt?

19 **A In -- it was on my -- during Montpelier,
20 at my address in Montpelier.**

21 Q You were at that house?

22 **A Yes.**

23 Q Did you go to court on the date noted in
24 the Warrant In Debt, which is May 7, 2010?

25 **A Yes, I did go.**

1 Q Were there any attorneys with you?

2 A No.

3 Q What did you tell the judge at that
4 hearing?

5 A I told him that I pleaded not guilty and I
6 told him that it wasn't my account and I explained to
7 Capital One what had happened, I also told him that I
8 wrote a letter with it and explained to them, so the
9 judge told me to just send -- do another affidavit and
10 send to them.

11 Q Was anyone there besides you and the judge
12 that was part of this discussion?

13 A No.

14 Q Was anyone there from Midland Funding, was
15 there an attorney there?

16 A I would not know who --

17 Q Were you given any new dates by the judge,
18 to take any steps in connection with the case?

19 A Well, at that point I thought that once I
20 send the affidavits in, that it was going to be
21 dismissed. But then I had -- Capital One told me I had
22 to be in court on a certain date, and I missed my court
23 date.

24 Q What court date did you miss?

25 A I forgot after that.

1 Q Was it in June or August?

2 A It was two of them, I missed both of them.
3 It was -- I don't know, I just missed both of those
4 after that.

5 Q Was it June 18, 2010? If you can look at
6 the Warrant In Debt. Do you see that? On the right
7 side. It says hearing date and time.

8 A I don't remember. It must be.

9 Q Do you see, below the May 7, 2010 at
10 10:00 a.m., it says June 18, 2010?

11 A Yes.

12 Q Could that have been one of the dates that
13 you failed to appear in court?

14 A It could have been.

15 Q Then how about the next date below that,
16 August 20, 2010, could that have been one of the dates
17 you failed to appear in court?

18 A It could have been.

19 Q Why did you miss those hearing dates?

20 A I totally forgot.

21 Q You forgot both of them?

22 A Yes.

23 Q After you missed the first date, did you
24 get anything from the court in writing telling you to
25 appear at the second date in August?

1 **A** **I got -- What did I get from there? Yes,**
2 **I did get something that said appear in August.**

3 **Q** **Then you just forgot again?**

4 **A** **I forgot. I just forgot.**

5 **Q** **If you can go to the back part of**
6 **Exhibit 5, where it says Affidavit of Nancy Kohls, do**
7 **you see that?**

8 **A** **The back part?**

9 **Q** **Yes. It is the third page.**

10 **A** **Yes, I see it.**

11 **Q** **Do you know whether you read this**
12 **affidavit at all?**

13 **A** **No.**

14 **Q** **Your testimony is you did not read it?**

15 **A** **Just now.**

16 **Q** **Okay. The first time you ever read it was**
17 **today?**

18 **A** **Yes.**

19 **Q** **Do you remember receiving the affidavit**
20 **but not reading it?**

21 **A** **I don't remember receiving it.**

22 **Q** **Is it a fair statement you don't know**
23 **whether you received it or not?**

24 **A** **I don't know that I received it or not.**

25 **Q** **Do you remember getting a copy of the**

1 **A Nothing, but when I sent the affidavits**
2 **and I wrote down what had happened with the affidavits.**

3 Q But you would agree with me, Exhibit 6 is
4 the affidavit. Look on the first page.

5 **A But the letter is not with it that I sent.**

6 Q Other than the letter and this
7 affidavit, --

8 **A Right.**

9 Q -- are those the only two documents you
10 ever sent to Midland?

11 **A Yes.**

12 Q Did you send the letter to Midland as the
13 cover letter for this affidavit?

14 **A Cover letter?**

15 Q Yes.

16 **A What you mean?**

17 Q I mean did you send the letter to Midland
18 and the affidavit at the same time?

19 **A Yes.**

20 Q That was approximately May 13 of 2010?

21 **A Right along in that area.**

22 Q That was the only time you sent anything
23 to Midland in writing disputing ownership of the debt?

24 **A Yes.**

25 Q If you would go to number 8 in the